IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.606 OF 1997
IN
WRIT PETITION NO.1879 OF 1996

The Municipal Corporation of
Greater Mumbai, having its office
at Mahapalika Bldg., Mahapalika
Marg, Fort, Mumba-1.

2. Municipal Commissioner,
for Municipal Corporation of
Gr. Mumbai, having his office
at Mahapalika Bldg., Mahapalika
Marg, Fort, Mumbai-1.

3. Dy.Municipal Commissioner
(Z-II), having his office
at G/N ward Mun.Office Bldg.
J.K.Sawant Marg,Mumbai-28.

4. Assistant Assessor & Collector
G/H Ward, having his office at
Mun. Office Bldg., J.K.Sawant
Marg, Mumbai-28.

Appellants
(original respondents
1 to 4.)

vs.

1. Lords Group Housing Finance
Ltd.,having its office at
78-79, 2nd floor, Mahendra
Chambers, Dr.D.N.Road, Fort,
Mumbai-400 001.

2. Vinay J. Thaper,
carrying on business in the
name and style of M/s.Taurus
Mutual Benefit Financial, as the
Sole Proprietor thereof having
his address at 45, Mamta ‘D’,
A.M. Marg, Prabhadevi, Mumbai-25
and also carrying on business in the
name & style of M/s.Assthetic
Builders & Developers as the sole
proprietor thereof having address
at 98-99, Chadda Crescent,
Sector 17, Vashi,New Mumbai.

3. Vinay Thapar (HUF)

through its Karta Shri Vinay
Kumar Thapar, having its office
at 78-79, 2nd floor, Mahendra
Chambers, Dr.D.N.Road, Fort,
Mumbai 400 001.

4. Rita Vinay Thapar
having address at 45, Mamta 'D',
A.M. Marg, Prabhadevi, Mumbai-25.

5. Pratibha V. Thapar,
having address at 45, Mamta 'D',
A.M. Marg, Prabhadevi, Mumbai-25.

6. M/s.Amar Builders,
having its address at D-Block
Wankhede Stadium Office premises
D Road, Churchgate,Mumbai-20.

7. The Secretary,
Laxmi Commercial Co.op.soc.Ltd.
(Proposed) having address at
Laxmi Commercial Centre,
Senapati Bapat Marg, Dadar(W),
Mumbai-400 028.

8. Additional Ch.Judge,
Court of Small Causes at
Mumbai, having his seat at
Small Causes Court, L.T.Rd.,
Mumbai-400 002.

9. Porus V. Thapar,
having address at 45, Mamta 'D',
A.M. Marg, Prabhadevi, Mumbai-25.

10. S.R. Mehra
carrying on business in shop
no.1, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

11. R. Mehra
carrying on business in shop
no.2, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

12.Mahesh J. Vora
carrying on business in shop
no.3, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

13. Bhupendra N. Shah
carrying on business in shop
no.4, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

14. Keyur N. Shah
carrying on business in shop
no.5, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

15. Ms.Kamal K. Shah
carrying on business in shop
no.6, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

16.Pankaj N. Mehta
carrying on business in shop
no.7, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

17.Khursheed Irani
carrying on business in shop
no.8, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

18.Playboy Corporation
carrying on business in shop
no.9, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

19.Madhu Mathuria,
carrying on business in shop
no.10, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

20.Mr.Amre,
carrying on business in shop
no.11, Gr.Floor at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

21.Vijay J. Vora
carrying on business in Unit
no.1, at Laxmi
Commercial Centre, Senapati

Bapat Marg, Dadar(W),Mumbai.

22. Harish Doshi,
carrying on business in Unit
no.2, at Laxmi
Commercial Centre, Senapati
Bapat Marg, Dadar(W),Mumbai.

23. Ashok Thaper
Proprietor of Maharashtra
Savings, carrying on business
in the entire, 1st floor, at
Laxmi Commercial Centre,
Senapati Bapat Marg, Dadar(W),
Mumbai.

24. Pradeep Khapra,
carrying on business in shop
no.3, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

25. R.G.Agarwal,
carrying on business in shop
no.4, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

26. Mrs.Ashrani Agarwal,
carrying on business in shop
no.5, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

27. Umesh Joshi,
carrying on business in shop
no.6, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

28. Digamber Appa Mithbaukar,
carrying on business in shop
no.7, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

29. R.G. Agarwal,
carrying on business in shop
no.8, 3rd floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.
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30. Ashok K. Doshi,

carrying on business in office
no.1, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

31. National Decorators,
carrying on business in office
no.2, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

32. Prashan Chamankar,
carrying on business in office
no.3, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

33. Kapil Agarwal,
carrying on business in office
no.4, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

34. Prakash Adelkar
carrying on business in office
no.5, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

35. Pulikkottil Thomas Louis,
carrying on business in office
no.6, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

36. Oriyavil Kurian Abraham,
carrying on business in office
no.7, 4th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

37. Arunkumar Lila & Co.
carrying on business on entire
sixth floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

38. Dharmesh M. Shah,
carrying on business in office
no.1, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

39. Arvind Parab,
carrying on business in office
no.3, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

40. S.S.Narkar,
carrying on business in office
no.4, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

41. Ramchand N. Manghani,
carrying on business in office
no.5, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

42. Suresh H. Manghani,
carrying on business in office
no.6, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

43. Ms.Kanta Manghani,
carrying on business in office
no.7, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

44. Neelam Bansal,
carrying on business in office
no.8, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai.

45. Suhas Gajanan Rege & Ganesh
Ramchandra Kulkarni,
carrying on business in office
no.9, 6th floor, at Laxmi
Commercial Centre, Senapati
Bapat Marg,Dadar(W),Mumbai. Respondents

Mrs.N.V.Sanglikar with Mrs.V.K.Khatau i/b.Smt.A.H.Chheda
& ors. for the appellant.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 15th December 2005

ORAL JUDGMENT (Per R.M.Lodha,J.).

Heard Mrs.N.V.Sanglikar, the learned counsel for the appellant. Nobody appears for the respondents.

2. The writ petition filed by the respondents 1 to 5 is pending before the learned Single Judge. At the time of issuance of rule, the learned Single Judge directed the present appellant not to auction the premises held by the present respondents 1 to 5 and 9 to 23.

3. Aggrieved by the interim restraint order, the Bombay Municipal Corporation has preferred the appeal.

4. We find from the proceedings that the Division Bench while admitting the appeal on 17.07.1997 stayed the impugned order. In other words, the restraint order passed by the learned Single Judge did not remain operative for the last 8 years. The respondents have not chosen to oppose the appeal. We are, thus, satisfied that the restraint order passed by the learned Single Judge not to auction the premises as set out in the order deserves to be set aside. We order accordingly.

5. Appeal is disposed of.

. No costs.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)